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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,098	02/05/2003	Julio Bragagnolo	F 6863	8490
7590 Jordan and Hamburg 122 East 42nd Street New York, NY 10168			EXAMINER A, PHI DIEU TRAN	
			ART UNIT 3637	PAPER NUMBER

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/786,098	<b>Applicant(s)</b> BRAGAGNOLO ET AL.	
	<b>Examiner</b> Phi D. A	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 22-25 and 27-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-21, 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11, 12, 15, 20-21, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 third line from last “ first panel support” is confusing. Should it be “first panel support element”?

Is applicant claiming the “panel”? The claimed language appears to claim the panel. However, the “panel” is not positively claimed as a separate structure.

Lines 10, and the last line “ engagement means for linking...a second panel support element...in engagement with the second panel support element” is confusing. Is applicant claiming a “second panel support element”? It appears from the second line of the claim “ a first unitary panel support element” that applicant is not claiming “the second panel support element”. The claim is thus indefinite.

Claim 12 “a first elongate member...to said first elongated member” is confusing. Are the elongate members part of the first unitary panel support element? If they are, the claimed language needs to clearly states the relationship. As claimed, it appears the members are additional parts that work with the first unitary panel support element. The claim is thus indefinite.

Claim 15 line 4 “strap on” is confusing. Should it be “ strap having one”?

Claims 20-21, 26 have the same problems as set forth above.

The claims are examined as best understood as having the “second support panel element”, and the panel, not claimed.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Klope (4621472).

Klope (figure 1) shows a panel support structure comprising a first unitary panel support element, the first panel support element solely and individually supporting a panel (the panel is supported by the element which includes parts 18, and 14), the panel support element comprising fixing means (31, figure 8) for fixing the first panel support element to a roof (the roof is not yet claimed), support means (the top part of part 18) for entirely supporting, releasably receiving and engaging a panel on the first panel support element, engagement means (20) for linking the first panel support element with a second panel support element so that the first panel support element is disposed in a predetermined juxtaposition to the second panel support element, the panel supported on and in engagement with the first panel support element being disposed in a predetermined juxtaposition to a panel supported on and in engagement with the second panel support element (inherently so as the panels are laid side by side on the elements), the first elongate member (14) having a length 2L extends in a first direction and second and third elongate members (18) each having a length disposed about the center of the first elongate

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member and transversely disposed with respect to the first elongated member, hinge means (the ends of part 18 having the protruded part hingedly connected to the part 51, and the claim is not specific as to the structure of the hinge) being provided at each end of the transverse elongate member, each of the hinge means being configured to cooperate with a hinge bracket provided on the reverse side of the respective panel (inherently capable of doing so, also the bracket is not claimed), the elongate members having a substantially constant cross section along the length, a plurality of fastener elements being provided, the fasteners being in the form of an elongate metal strap (35, figure 1, the part where screws 30 go through, also the roof is not claimed) one end of which is attachable to the first panel support element and the other end of which is attachable to the roof (the strap is indirectly attached to the roof and the element), the fastener elements being provided with preformed holes (where screw 30 go through), an attachment clip (87, figure 2) which cooperates with the cross shape of the members of the panel support element, to clip onto the support element, the attachment clip being provided with a plurality of holes to allow adjustable connection of the fastener element by way of a crew or rivet (inherently capable of doing so), the holes in the clip differ in pitch when compared with those of the fastener strap, the attachment clip being slidably engaged with the respective member of the support element (inherently so when assembling), the engagement means(20) comprising bracket elements of a predetermined length defining mating means(the protrusion and the gap at the end thereof) for engaging with corresponding mating means at a predetermined location at or adjacent each end of the members of the panel support element, the corresponding mating means including a pair of detents (the gap and the its protruding structure) adjacent each end of the first elongate member and the two transverse elongate member.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-21, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klope (4621472) in view of McMaster et al (5125608).

Klope shows all the claimed limitations except for the two transversely elongate members each having a length L.

McMaster et al shows two transversely elongate members (34) each having a length L symmetrically disposed about the center of the first elongate member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Klope to show the two transversely elongate members each having a length L as taught by McMaster et al because it would enable the formation of a symmetrical supporting structure around the center of the first elongate structure as taught by McMaster et al; also, a change in size is generally recognized as being the level of one of ordinary skill in the art, In re Rose, 105 USPQ 237 (CCPA 1955).

***Response to Arguments***

5. Applicant's arguments filed 8/26/05 have been fully considered but they are not persuasive.

With respect to applicant's argument that Klope does not provide a hinge means, examiner respectfully disagrees. As set forth above, the protrusion at the end of the structure provides the "hinge means" as claimed. The claimed language is reasonably broadly interpreted as claimed. If applicant has a different kind of structure for "hinge means" in mind, applicant is encouraged to put the structural limitations in the claim. The argument is thus moot.

With respect to applicant's argument that members 18 are rafters and are intended to be rigidly fixed into the structure, examiner respectfully points out that the reference shows the limitations as claimed. The argument is thus moot.

With respect to applicant's statement to the metal strap, examiner respectfully points out that the straps are indirectly attached to the roof as set forth above. Claimed limitations are not specific enough to warrant a narrower claim interpretation. Furthermore, the roof is not claimed. The argument is thus moot.

With respect to "adjustable connection" for the holes of strap 35 of Klope, the strap as shown having holes for allowing fasteners 30 to go through. The fasteners are threaded, and rotatably fastened the strap to an underlying structure. At assembly, the fasteners are adjustable such that only a desired fastening force can exist to pull the different parts together. It thus allows for "adjustable connection". Once again, applicant has not set forth a structural limitation that distinguishes over the prior art's teaching.

With respect to applicant's statement that examiner suggests the elongate metal strips is screwed to an attachment clip 87, examiner respectfully points out that this is simply not true. The office action simply states that the clip and the strap having different pitch, without stating

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attaching relationship otherwise. The claimed language also does not require the relationship as stated by applicant. The argument is thus moot.

With respect to applicant's statement to "unitary support element for solely and individually supporting a panel", examiner respectfully points out the reference shows the structures as claimed and able to meet the functions. The argument is thus moot.

With respect to applicant statement to "hinging action", the reference shows the structure able to "hinge" as claimed. Once again, if applicant means to have the structure "hinge" in any special configurations, applicant is respectfully asks to claim the special "hinge motion" or the structure which provides such special "hinge motion". The argument is thus moot.

6. In response to applicant's argument that applicant's invention is to attach panels to a roof, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a series of loops and a large circular flourish at the end.

Phi Dieu Tran A

11/14/05